

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

UNITED STATES OF AMERICA)	
)	
)	
v.)	Criminal No. 3:06-00151
)	Judge Trauger
RAPHAEL CORTEZ HOWE, II)	

ORDER

The defendant has filed a *pro se* Motion Pursuant to Federal Rule of Criminal Procedure Rule 36 (Docket No. 56), to which the government has responded (Docket No. 68), and prior appointed counsel for this defendant filed a Submission (Docket No. 64).

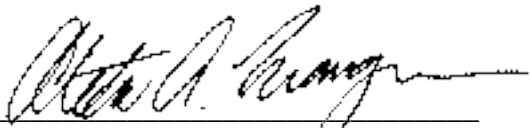
The defendant maintains that, pursuant to United States Sentencing Guideline § 5G1.3(c), he should have been sentenced to 138 months instead of 151 months, in order to effectuate the court's order that his federal sentence run concurrently with the state time he was presently serving. The government is correct that this section of the guidelines was mentioned nowhere during the lengthy sentencing hearing, the transcript of which appears in the record (Docket No. 46). However, it is true that the court ordered that his 151-month sentence run concurrently with the state time that he was presently serving.

The defendant was sentenced on April 21, 2008, and the Tennessee Department of Corrections letter filed by defense counsel states that the defendant was, at that time, serving a state sentence (Docket No. 64-1). Therefore, the Bureau of Prisons should credit the defendant with time served on this federal sentence beginning on April 21, 2008. There is no indication in this record that the Bureau of Prisons has not so credited the defendant with this time.

Because there is no basis upon which to reduce his sentence to 138 months pursuant to § 5G1.3(c) of the Sentencing Guidelines, this motion is **DENIED**.

It is so **ORDERED**.

ENTER this 18th day of February 2014.



ALETA A. TRAUGER
U.S. District Judge